

DOCKET NO. PRES06-00217
Customer No. 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Ronald A. Schachar
Serial No. : 09/940,722
Filed : August 27, 2001
For : SCLERAL PROSTHESIS FOR TREATMENT OF PRESBYOPIA AND
OTHER EYE DISORDERS
Group No. : 3738
Examiner : David H. Willse

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

Sir:

The undersigned hereby certifies that the following documents:

1. Response to Notice of Non-Compliant Amendment;
2. Supplemental Amendment; and
3. A postcard receipt

relating to the above application, were deposited as "First Class Mail" with the United States Postal Service, addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 31, 2008.

Date: 1/31/08

Date: 1-31-2008

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Sir:

RESPONSE TO NOTICE OF NONCOMPLIANT AMENDMENT

In response to the Notice of Non-Compliant Amendment mailed December 31, 2007
Applicant submits herewith a Supplemental Amendment.

The Notice indicates that support for the "expanded" prosthesis limitation in claim 61 has not been identified. The Supplemental Amendment submitted herewith corrects the typographical error in claim 61 relating to the adjective "expanded" in connection with the recited prosthesis.

Similarly claim 74 has been amended for clarity in response to the Notice. Support for the limitation that the body has no portions that are spaced apart from each other further than the first and second ends is found in Figure 6, which depicts a prosthesis having such a feature.

Claims 1 and 61-70, 74-90, 94-103 and 106-108 are all believed to be readable on the elected species. Applicant respectfully submits that characterization of newly added claims 109-123 would be improper since no restriction requirement with respect to those claims has been made.

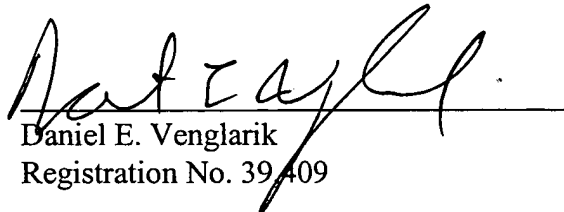
If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *dvenglarik@munckbutrus.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

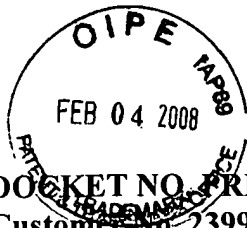
Respectfully submitted,

MUNCK BUTRUS CARTER, P.C.

Date: 1-31-2008


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Sir:

SUPPLEMENTAL AMENDMENT

In response to the Notice of Non-Compliant Amendment mailed December 31, 2007, entry of the amendments contained herein is respectfully requested. Applicant is believed to be entitled to entry of these amendments. 37 C.F.R. § 1.111(a)(2)(i) reads (emphasis added):

A reply that is supplemental to a reply ***that is in compliance with § 1.111(b)*** will not be entered as a matter of right except as provided in paragraph (a)(2)(ii) of this section.

37 C.F.R. § 1.111(b) states (emphasis added):

In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action ***and must reply to every ground of***

objection and rejection in the prior Office action.

The Notice of Non-Compliant Amendment mailed December 31, 2007 establishes conclusively that the amendment and response filed on August 9, 2007 was not “in compliance with § 1.111(b).” Therefore Applicant is entitled to entry of this supplemental amendment as a matter of right.

No fee is believed to be necessary for the claims added herein. Claims 109-123 were previously submitted in a supplemental amendment filed September 25, 2007, with Munck Butrus P.C. check no. 58030 in the amount of \$1,950.00 enclosed for the additional claims fee. That check was cashed. The Notice of Non-Compliant Amendment mailed December 31, 2007 indicates that claims 109–123 were NOT entered. However, no refund of the additional claims fee to applicant has been made. Accordingly, no additional claims fee for claims 109–23 submitted herein is due.

Please amend the above-identified application as follows: